



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 12, 1996

Mr. Merril E. Nunn
City Attorney
City of Amarillo
P.O. Box 1971
Amarillo, Texas 79105-1971

OR96-2375

Dear Mr. Nunn:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 102426.

The Amarillo Police Department (the "department") received a request for investigation reports, field interview reports, and jail records or reports in which Augustine Montes was a suspect, witness, or complainant. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We first address records where Mr. Montes was a suspect. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by common-law and constitutional privacy. Where an individual's criminal history information has been compiled by a governmental entity, the information takes on a character that implicates the individual's right to privacy. *See United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989). We, therefore, conclude that the department must withhold from required public disclosure under common-law privacy any submitted documents in which Mr. Montes was a suspect. *See id.*; *see also* Gov't Code § 411.106(b).

There are two additional reports submitted by the department that are not excepted from disclosure under privacy. Section 552.101 of the Government Code encompasses information protected by other statutes. Section 51.14(d) of the Family Code was repealed by the Seventy-fourth Legislature. Act of May 27, 1995, 74th Leg., R.S., 1995 Tex. Gen. Laws 2517, 2590. The Seventy-fourth Legislature replaced the provisions concerning juvenile criminal records with section 58.007 of the Family Code. However, conduct that occurred prior to January 1, 1996, is governed by the law in effect at the time the conduct occurred, and that law is continued in effect for that purpose. *Id.* As

the conduct in these two reports occurred before January 1, 1996, we must determine if section 51.14(d) of the Family Code excepts that information from required public disclosure.

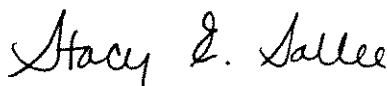
Section 51.14(d) provides, in pertinent part:

Except as provided by Article 15.27, Code of Criminal Procedure, and except for files and records relating to a charge for which a child is transferred under Section 54.02 of this code to a criminal court for prosecution, the law-enforcement files and records [concerning a child] are not open to public inspection nor may their contents be disclosed to the public

It appears that these two reports do not involve a charge for which the juveniles were transferred under section 54.02 of the Family Code. It is not apparent that any of the provisions allowing inspection of the records apply to the requestor. Additionally, none of the exceptions to section 51.14(d) apply here. We conclude that the department must withhold these two offense reports under section 51.14(d) of the Family Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/ch

Ref.: ID# 102426

Enclosures: Submitted documents

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